

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MITCHELL ENGINEERING,

No. C 08-04022 SI

Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO
and ANTHONY IRONS,

Defendants.

SPECIAL VERDICT

We the jury unanimously find as follows on the questions submitted to us:

**Part I. Claim against Defendants Anthony Irons and City and County of San Francisco
(First Amendment/Public Contractor Speech)**

A. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. That Mitchell Engineering spoke out publicly as a citizen and not as part of its official duties as a public works contractor.

Yes

No

2. That Anthony Irons took an adverse action against Mitchell Engineering.

Yes

No

3. That Mitchell Engineering's speech was a substantial or motivating factor for the adverse action.

Yes

No

If your answer to any of questions I-A(1), A(2) or A(3) was "No," do not answer the following questions, but go directly to Part II. Otherwise, please answer the next questions.

1 B. Did defendants prove, by a preponderance of the evidence, all of the elements
2 necessary to establish the following?

3 1. That the defendant had an adequate justification for treating Mitchell
4 Engineering
differently from other members of the general public.

5 _____
6 Yes

No

7 2. That the defendant would have taken the adverse action even absent Mitchell
8 Engineering's protected speech.

9 _____
Yes

No

10 If your question to either of questions I-B(1) or B(2) was "Yes," please do not answer the following
11 questions, but go directly to Part II. Otherwise, please answer the next questions.

12 C. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the
13 elements necessary to establish the following?

14 1. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leal
15 knew of and specifically approved of Anthony Iron's acts.

16 _____
Yes

No

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18 Please go to Part II.
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**Part II. Claim against Defendant City and County of San Francisco
(Procedural Due Process)**

A. Did plaintiff Mitchell Engineering prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. That in terminating the Central Pump contract, defendant Anthony Irons acted with the specific intent of debarring Mitchell Engineering from the bidding process for public contracts.

Yes No

2. That in terminating the Central Pump contract, Anthony Irons in fact debarred Mitchell Engineering.

Yes No

3. That Mitchell Engineering was not provided adequate procedural protections in connection with being debarred.

Yes No

4. Susan Leal ratified Anthony Irons' act and the basis for it, that is, Susan Leal knew of and specifically approved of Irons' acts.

Yes No

If your answer to any of questions II-A(1), A(2), A(3) or A(4) was "No," do not answer the following questions, but go directly to Part III. Otherwise, please answer the next questions.

B. Did defendants prove, by a preponderance of the evidence, all of the elements necessary to establish the following?

1. That the defendant would have taken the actions that debarred Mitchell Engineering even if the defendant had not actually intended to debar Mitchell Engineering.

Yes No

Please go to Part III.

Part III: Damages:

If your answer to Question I-C(1) was "No" or blank, and your answer to Question II-B(1) was "Yes" or blank, do not answer any further questions. Instead, go directly to the end of the verdict form, and sign and date it where indicated. Otherwise, please answer the next questions.

A. Did Mitchell Engineering prove, by a preponderance of the evidence, that it was caused damage by the constitutional violations(s) you have found?

Yes

No

B. If so, what is the amount of damages that Mitchell Engineering proved, after taking into account any failure to mitigate damages proved by defendant?

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Part IV: Malicious, Oppressive or Reckless Conduct:

Did Mitchell Engineering prove, by a preponderance of the evidence, that the conduct of defendant Anthony Irons both harmed the plaintiff and was malicious, oppressive or in reckless disregard of the plaintiff's rights, as those terms have been defined for you in these instructions?

Yes

No

Dated:

FOREPERSON